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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,934	03/22/2004	Celso J. Bagaioisan	ACI-004	2871
23410 7590 05/30/2008 Vista IP Law Group LLP 2040 MAIN STREET, 9TH FLOOR IRVINE, CA 92614				
EXAMINER				
WITCZAK, CATHERINE				
ART UNIT		PAPER NUMBER		
3767				
MAIL DATE		DELIVERY MODE		
05/30/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/806,934

Applicant(s)

BAGAOISAN ET AL.

Examiner

CATHERINE N. WITCZAK

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-14, 16-18 and 25-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 18 is/are allowed.
- 6) ☐ Claim(s) 11-14, 16, 17, 25-31, 33, 34, and 36-38 is/are rejected.
- 7) ☐ Claim(s) 32 and 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/12/2008 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 11-14, 16, 17, 25, 26, 29-31, 33, 34, and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cruise et al (US 6,994,686) as modified by Jeanbourquin (US 6,223,936).

Cruise et al disclose in Figures 8A-D, 10, and 18 a method for delivering sealing compound comprising the steps of introducing a delivery sheath (24) having an occlusion member into a puncture; the delivery sheath connected to a pair of barrels (22) by a Y-fitting (Figure 28), wherein the sealing components are provided in the barrels by moving a valve coupled to the barrel ports for connecting the barrels with containers so as to mix buffer solutions in the barrels with solid polymer precursor components (Figure 8).

Cruise et al disclose the claimed invention except for an auto-injection assembly having an actuator activate able to release a spring mechanism. Jeanbourquin disclose in Figure 1 an auto-injection

assembly comprising an actuator activatable to release a spring mechanism to automatically direct a plunger assembly to inject components out of the barrels. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Cruise et al with an autoinjection system as taught by Jeanbourquin, since such a modification would automate the system of Cruise et al, making it easier to use.

Allowable Subject Matter

2. Claim 18 is allowed.
3. Claims 32 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 3/12/2008 have been fully considered but they are not persuasive. Applicant argues that Jeanbourquin does not disclose a device in which once an actuator is activated, the pistons are automatically directed towards their distal positions. Examiner disagrees. Although the Jeanbourquin reference does indeed disclose the use of a brake lever which is biased towards an engaged position by a spring when grip 20 is released, Applicant has made no mention as to the time frame during which actuation must occur. A user could surely--if they desired to do so--actuate the device of Jeanbourquin by continuously holding the grip 20 for a long enough period of time so as to allow the pistons to fully move to their distal ends; such a delivery occurring without the brake lever being engaged, and thus providing for delivery which occurs continuously and without pauses.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE N. WITCZAK whose telephone number is (571)272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Catherine N Witzak/
Examiner, Art Unit 3767
/Kevin C. Simons/
Supervisory Patent Examiner, Art Unit 3767